
HOUSE BILL 2400

State of Washington

57th Legislature

2002 Regular Session

By Representatives Eickmeyer, Buck, Doumit, Sump, Jackley, Rockefeller, Dunn, McDermott and Haigh; by request of Department of Natural Resources

Read first time 01/16/2002. Referred to Committee on Natural Resources.

1 AN ACT Relating to installing recreational docks and mooring buoys;
2 and amending RCW 79.90.105.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 79.90.105 and 2001 c 277 s 1 are each amended to read
5 as follows:

6 (1) The abutting residential owner to state-owned shorelands,
7 tidelands, or related beds of navigable waters, other than harbor
8 areas, may install and maintain without charge a dock on such areas if
9 used exclusively for private recreational purposes and the area is not
10 subject to prior rights, including any rights of upland, tideland, or
11 shoreland owners as provided in RCW 79.94.070, 79.94.260, 79.94.280,
12 and 79.95.010. The dock cannot be sold or leased separately from the
13 upland residence. The dock cannot be used to moor boats for commercial
14 or residential use. This permission is subject to applicable local,
15 state, and federal rules and regulations governing location, design,
16 construction, size, and length of the dock. ((This permission may be
17 revoked by the department upon finding of public necessity which is
18 limited to the protection of waterward access or ingress rights of
19 other landowners or public health and safety. The revocation may be

1 ~~appealed as an adjudicative proceeding under chapter 34.05 RCW, the~~
2 ~~administrative procedure act.)~~) Nothing in this (~~(section)~~) subsection
3 (1) prevents the abutting owner from obtaining a lease if otherwise
4 provided by law.

5 (2) The abutting residential owner to state-owned shorelands,
6 tidelands, or related beds of navigable waters, other than harbor
7 areas, may (~~(anchor to)~~) install and maintain a mooring buoy(~~(s)~~)
8 without charge if the boat that is (~~(anchored)~~) moored to the buoy is
9 used for private recreational purposes (~~(and)~~), the area is not subject
10 to prior rights, including any rights of upland, tideland, or shoreland
11 owners as provided in RCW 79.94.070, 79.94.260, 79.94.280, and
12 79.95.010, and the buoy will not obstruct the use of mooring buoys
13 previously authorized by lease, license, or other instrument by the
14 department.

15 (a) The buoy must be located as near to the abutting residential
16 property as practical, consistent with applicable rules and regulations
17 and the provisions of this section. The buoy must be located, or
18 relocated if necessary, to accommodate the use of lawfully installed
19 and maintained buoys.

20 (b) If two or more residential owners, who otherwise qualify for
21 free use under the provisions of this section, are in dispute over
22 assertion of rights to install and maintain a mooring buoy in the same
23 location, they may seek formal settlement through adjudication in
24 superior court for the county in which the buoy site is located. In
25 the adjudication, preference must be given to the residential owner
26 that first installed a buoy on that site, if it meets all applicable
27 rules, regulations, and provisions of this section, and then to the
28 owner of the residential property nearest the site. Nothing in this
29 section requires the department to mediate or otherwise resolve
30 disputes between residential owners over the use of the same site for
31 a mooring buoy.

32 (c) The buoy(~~(s)~~) cannot be sold or leased separately from the
33 (~~(upland residence)~~) abutting residential property. The (~~(mooring)~~)
34 buoy cannot be used to moor boats for commercial(~~(, transient,)~~) or
35 residential use, nor to moor boats over sixty feet in length. (One
36 buoy may be installed without charge for the first one hundred feet of
37 shoreline property owned, and one additional buoy may be installed
38 without charge for every one hundred feet of shoreline property owned
39 above the initial one hundred feet. The permission granted in this

1 ~~subsection is subject to the boat or mooring system not posing a hazard~~
2 ~~or obstruction to navigation or fishing or habitat degradation.))~~

3 (d) If the department determines that it is necessary for secure
4 moorage, the abutting residential owner may install and maintain a
5 second mooring buoy, under the same provisions as the first, the use of
6 which is limited to a second mooring line to the boat moored at the
7 first buoy.

8 (e) The permission granted in this subsection (2) is subject to
9 applicable local, state, and federal rules and regulations governing
10 location, design, installation, maintenance, and operation of the
11 mooring buoy, anchoring system, and moored boat. Nothing in this
12 subsection (2) prevents a boat owner from obtaining a lease if
13 otherwise provided by law. This subsection (2) also applies to areas
14 that have been designated by the commissioner of public lands or the
15 fish and wildlife commission as aquatic reserves.

16 (3) This permission to install and maintain a recreational dock or
17 mooring buoy may be revoked by the department, or the department may
18 direct the owner of a recreational dock or mooring buoy to relocate
19 their dock or buoy, if the department makes a finding of public
20 necessity to protect waterward access ((~~or~~)), ingress rights of other
21 landowners ((~~or~~)), public health or safety, or public resources.
22 Circumstances prompting a finding of public necessity may include, but
23 are not limited to, the dock, buoy, anchoring system, or boat posing a
24 hazard or obstruction to navigation or fishing, contributing to
25 degradation of aquatic habitat, contributing to decertification of
26 shellfish beds otherwise suitable for commercial or recreational
27 harvest, or interfering with the department's ability to exercise its
28 leasing authority under chapters 79.90 through 79.96 RCW. The
29 revocation may be appealed as ((an adjudicative proceeding under
30 chapter 34.05 RCW, the administrative procedure act)) provided for
31 under RCW 79.90.400.

32 (4) Nothing in this ((sub))section authorizes a boat owner to
33 abandon a vessel at a recreational dock, mooring buoy, or elsewhere.

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